

Fresno, California

June 9, 2011

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Oliver Baines III	Councilmember
	Andreas Borgeas	Councilmember
	Clinton Olivier	Acting Council President
	Sal Quintero	Councilmember
	Blong Xiong	Councilmember
	Lee Brand	Council President

Absent:	Larry Westerlund	Councilmember
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Mark Scott, City Manager
Bruce Rudd, Assistant City Manager
Jim Sanchez, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Father James Pappas gave the invocation and President Brand led the Pledge of Allegiance.

PRESENTATION OF THE SPCA PET OF THE MONTH – COUNCILMEMBER QUINTERO

Presented.

ADD-ON: PROCLAMATION OF “ROOSEVELT RUGBY TEAM DAY” – MAYOR SWEARENGIN AND COUNCILMEMBERS OLIVIER AND QUINTERO

Read and presented.

PROCLAMATION OF “BRYAN JONES DAY” – MAYOR AND CITY COUNCIL

Read and presented.

PROCLAMATION OF “FRESNO AG HARDWARE DAY” – MAYOR’S OFFICE

Read and presented.

PRESENTATION OF “PRIME TIME FOR BUSINESS: BEELINE BOXES” – DCR DEPARTMENT

(2 – 0) Presentation made.

ADD-ON: PROCLAMATION OF “LYKESHA LANKFORD DAY, ACADEMIC ALL-STAR” – COUNCILMEMBER QUINTERO

Read and presented.

APPROVE COUNCIL MINUTES OF MAY 26, 2011:

On motion of Acting President Olivier, seconded by Councilmember Quintero, duly carried, RESOLVED, the minutes of May 26, 2011, approved as submitted.

APPROVE BUDGET MINUTES OF MAY 23, 24, 25 & 27, 2011:

On motion of Councilmember Quintero, seconded by Acting President Olivier, duly carried, RESOLVED, the minutes of May 23, 24, 25 and 27, 2011, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

Councilmember Xiong (1) commented on the successful grand opening of the new Thai restaurant downtown; (2) congratulated the FUN group for another successful golf tournament; (3) thanked the Cambodian community and the Fresno State Collegiate Association on the first inaugural cultural empowerment banquet; (4) commended Crime Stoppers for their successful event; and (5) thanked Clovis Unified and Gateway Enterprise High School for the opportunity to speak at their graduation and commended the students who went through obstacles and challenges and graduated.

President Brand thanked City Manager Scott and all the department directors and staff for their attendance and assistance at his district meeting last Tuesday.

APPROVE AGENDA:

(10:00 A.M.) RESOLUTION – IN SUPPORT OF THE SAN JOAQUIN VALLEY WATER RELIABILITY ACT – ACTING PRESIDENT OLIVIER

Removed from the agenda.

On motion of Acting President Olivier, seconded by Councilmember Quintero, duly carried, RESOLVED, the **AGENDA** hereby approved, as amended, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Quintero, Xiong, Brand
Noes	:	None
Absent	:	Westerlund

ADOPT CONSENT CALENDAR:

Councilmembers Quintero and Borgeas pulled Items **1-K** and **1-C** from the Consent Calendar for separate discussion/action.

(1-A) ADOPT FINDING OF CLASS 1 AND 2 CATEGORICAL EXEMPTIONS PURSUANT TO CEQA (EXISTING FACILITIES AND REPLACEMENT OR RECONSTRUCTION) FOR THE HEADWORKS MAKEUP AIR HANDLER REPLACEMENT PROJECT AT THE FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY #1 AWARD A CONTRACT FOR THE PROJECT TO NEW ENGLAND SHEET METAL IN THE AMOUNT OF \$166,095

(1-B) RESOLUTION NO. 2011-101 – APPROVING ANNUAL PARTICIPATION IN THE FEDERAL EQUITABLE SHARING AGREEMENT PROGRAM FOR THE DISPOSITION OF FUNDS FORFEITED IN CONNECTION WITH A CRIME, AND AUTHORIZING THE CITY MANAGER AND CHIEF OF POLICE TO EXECUTE THE NECESSARY DOCUMENTS

(1-D) RESOLUTION NO. 2011-102 – AUTHORIZING THE DARM ASSISTANT DIRECTOR, OR DESIGNEE, TO EXECUTE STANDARD AGREEMENTS, ANY AMENDMENTS THERETO, AND ANY OTHER DOCUMENTS NECESSARY TO PARTICIPATE IN THE STATE OF CALIFORNIA “BUILDING EQUITY AND GROWTH IN NEIGHBORHOODS” (BEGIN) PROGRAM, SUBJECT TO REVISIONS AND APPROVAL BY THE CITY ATTORNEY’S OFFICE (AUTHORIZING AND APPOINTING A NEW SIGNATORY FOR EXECUTION OF DOCUMENTS)

(1-E) APPROVE THE REAPPOINTMENTS OF SEROP TOROSSIAN AND ROJELIO (ROY) VASQUEZ TO THE PLANNING COMMISSION, AND MICHELLE BRONSON TO THE DISABILITY ADVISORY COMMISSION – MAYOR’S OFFICE

(1-F) RESOLUTION NO. 2011-103 – 501ST AMENDMENT TO MFS RESOLUTION NO. 80-420 INCREASING GREEN FEES AT THE RIVERSIDE MUNICIPAL GOLF COURSE

(1-G) RESOLUTION NO. 2011-104 – DEDICATING CERTAIN CITY OWNED PROPERTY FOR PUBIC STREET PURPOSES AT VARIOUS LOCATIONS ON PEACH AVENUE BETWEEN KINGS CANYON ROAD AND BELMONT AVENUE THAT ARE NECESSARY FOR THE PEACH AVENUE WIDENING PROJECT

(1-H) ADOPT FINDING OF A CATEGORICAL EXEMPTION PURSUANT TO CEQA THAT THERE IS NO POSSIBLITY THIS PROJECT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT

#1 RESOLUTION NO. 2011-105 – ORDERING THE SUMMARY VACATION OF A PORTION OF A PUBLIC BICYCLE PATH EASEMENT ALONG THE SOUTHWEST SIDE OF THE BNSF RAILROAD, EAST OF N. MARTY AVENUE

(1-I) APPROVE AN AMENDMENT TO THE AGREEMENT WITH PARTNERS IN CONTROL, INC., TO PROVIDE ADDITIONAL OPTIMIZATION PLC REPLACEMENT TO INTEGRATE THE NEW CITECTSCADA SYSTEM WITH THE EXISTING OPTIMIZATION PLC FOR THE GROUNDWATER SUPERVISORY CONTROL AND DATA ACQUISITION (SCADA) UPGRADE PROJECT FOR THE DEPARTMENT OF PUBLIC UTILITIES WATER DIVISION, IN AN AMOUNT NOT TO EXCEED \$93,486 AND A CONTINGENCY AMOUNT NOT TO EXCEED \$24,648 FOR OPTIONAL COMMISSIONING WORK, AND AUTHORIZE THE DIRECTOR OF PUBLIC UTILITIES, OR DESIGNEE, TO EXECUTE THE AMENDMENT ON BEHALF OF THE CITY

(1-J) ADOPT FINDING OF CATEGORICAL EXEMPTION PURSUANT TO CEQA

#1 RESOLUTION NO. 2011-106 – APPROVING THE SUMMARY VACATION OF PORTIONS OF A PUBLIC UTILITY EASEMENT BOUNDED BY N. BLACKSTONE AVENUE, E. WHITE AVENUE, N. ABBY STREET AND STATE ROUTE FREEWAY 180 (MATHEWS HARLEY DAVIDSON)

(1-L) AWARD A CONTRACT IN THE AMOUNT OF \$144,000 TO STEVE DOVALI CONSTRUCTION FOR THE CONSTRUCTION OF WELL SITE IMPROVEMENTS AT PUMP STATION 358

(1-M) APPROVE AN AMENDMENT TO THE AGREEMENT WITH TAYLOR TETER PARTNERSHIP, LLP, FOR INCREASED SCOPE AS PART OF THE ARCHITECTURAL AND ENGINEERING SERVICES FOR THE DESIGN OF BUILDING ENHANCEMENTS AND RENOVATION FOR THE SECONDARY PROCESS OPERATIONS BUILDING LOCATED AT THE FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY FOR A NET INCREASE OF \$29,000

(1-N) APPROVE THE SECOND AMENDMENT TO THE LICENSE AGREEMENT WITH GOLDENSTATE TOWERS, LLC, ADDING FOUR (4) EXTENSIONS OF FIVE (5) YEARS EACH AT THE END OF THE FINAL EXTENSION TERM ON DECEMBER 10, 2019

(1-O) APPROVE AND RATIFY AN AMENDMENT TO THE CONTRACT WITH THE FRESNO COUNTY OFFICE OF EDUCATION IN THE AMOUNT OF \$35,362 FOR THE PARCS DEPARTMENT TO PROVIDE ADDITIONAL SERVICES FOR THE FRESNO BEST PROGRAM AT ORANGE CENTER MIDDLE SCHOOL RUNNING THROUGH 6/30/11

#1 RESOLUTION NO. 2011-107 – 97TH AMENDMENT TO AAR 2010-138 APPROPRIATING \$35,400 IN THE PARCS BUDGET FOR PROGRAM SERVICES

(1-P) AUTHORIZE THE FIRE CHIEF TO EXTEND THE CONTRACT WITH DIGITAL SANDBOX, A PROFESSIONAL CONSULTING FIRM, FROM 6/12/11, TO 8/31/11

(1-Q) ADOPT FINDING OF CLASS 1 CATEGORICAL EXEMPTION PURSUANT TO CEQA (EXISTING FACILITIES) FOR THE DIGESTER #2 CLEANING AT THE FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY

#1 AWARD A CONTRACT FOR THE PROJECT TO WASTEWATER SOLIDS MANAGEMENT, INC., IN THE AMOUNT OF \$119,960

(1-R) RESOLUTION NO. 2011-108 – 98TH AMENDMENT TO AAR 2010-138 APPROPRIATING \$3,500 IN REVENUE DONATED BY COUNCIL PRESIDENT BRAND FOR USE IN THE DISTRICT 6 OPERATING BUDGET

On motion of Acting President Olivier, seconded by Councilmember Quintero, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes : Baines, Borgeas, Olivier, Quintero, Xiong, Brand
Noes : None
Absent : Westerlund

CONTESTED CONSENT CALENDAR:

(1-C) APPROVE AN AGREEMENT BETWEEN THE POLICE DEPARTMENT AND CALTRANS TO PROVIDE A LITTER CLEAN-UP PROGRAM USING (MADERA) INMATE LABOR

Police Lt. Bennink, City Manager Scott, ACM Rudd and Mayor Chief of Staff White responded at length to questions and comments of Councilmembers Borgeas, Olivier, Xiong, Baines and President Brand and/or clarified issues relative to the background of the program, how the program worked, if a relationship with Fresno County was explored, if it was possible to get an estimate on the county's cost to provide inmates, if a briefing could be provided on how a relationship with Fresno County could be implemented, where the police officer would be assigned if Caltrans was not reimbursing the city, if the officer was uniformed/if he was working more as a guard or a patrol officer/if the position could be outsourced, past discussions with the police chief on this issue, how the relationship with Fresno County did not work out and an alternative partnership was sought, the success and value of this program/eligible participants (low risk)/the unknowns on the county side, what Caltrans' responsibilities were, why the city was overseeing this program with Caltrans' funding, cost effectiveness/concern with the cost of the officer going back and forth to Madera, concern with Caltrans' desire to not use community sanitation employees/civilians as inmates were also civilians, the value/success of this program not being questioned and the concern being about a police officer being taken out of service, concern with whether this was the best use of a police officer's time, number of inmates used, if hiring individuals/basic labor at minimum wage was an alternative, and the need for a police officer being eliminated if civilians are hired. Mr. Scott stated he was a little surprised by this conversation and added the bigger surprise to him was that Caltrans was even willing to continue to fund this program, stated he was "scared to death" to push Caltrans on this as Fresno could end up looking like Bakersfield and other places around the state where nothing was being done, and spoke to the issue of using civilians stating he did not see how that would save money and explained.

Councilmember Borgeas made a motion to approve the agreement and clarified he wanted the information requested on the cost for a program with Fresno County, which motion was seconded by Councilmember Xiong. Councilmember Borgeas questioned if some members wanted more time for a review whereupon Councilmember Baines stated he was still on the fence on whether or not this was the best thing the police department should be doing and he felt raising the issue and having a worthwhile conversation with Caltrans on whether there was a better way to do this to create a win-win for both the city and Caltrans was not out of line at all. Upon question Lt. Bennink stated there was currently no contract and no service since April 1st, whereupon Councilmember Borgeas withdrew his motion and made another motion to continue this matter two weeks to obtain the information requested.

On motion of Councilmember Borgeas, seconded by Councilmember Xiong, duly carried, RESOLVED, Item **1-C** continued two weeks for additional information from staff, by the following vote:

Ayes : Baines, Borgeas, Olivier, Quintero, Xiong, Brand
Noes : None
Absent : Westerlund

(1-K) AWARD A CONTRACT IN THE AMOUNT OF \$418,638 TO GRIZZLY CONSTRUCTION FOR THE CONSTRUCTION OF WELLHEAD TREATMENT IMPROVEMENTS AT PUMP STATION 36

(3 – 0) Upon question of Councilmember Quintero, Assistant Public Utilities Director Querin stated all water delivered is tested, the tests were on-going and this practice had been going on since 1991, and explained how the wellhead treatment process worked.

On motion of Councilmember Quintero, seconded by Councilmember Baines, duly carried, RESOLVED, a contract hereby awarded to Grizzly Construction in the amount of \$418,638 for construction of wellhead treatment improvements at Pump Station 36, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Quintero, Xiong, Brand
Noes	:	None
Absent	:	Westerlund

(9:15 a.m. “A”) RESOLUTION NO. 2011-109 – DECLARING THE CITY COUNCIL’S INTENTION TO APPROVE A NON-EXCLUSIVE ROLL-OFF FRANCHISE SYSTEM TO REGULATE ROLL-OFF HAULERS AND AWARD FRANCHISES TO COMPANIES (LISTED ON ATTACHMENT ‘A’ TO EXHIBIT ‘A’) IN PREPARATION FOR A PUBLIC HEARING ON THE MATTER AND FINAL VOTE TO APPROVE THE NON-EXCLUSIVE ROLL-OFF FRANCHISE SYSTEM ON JUNE 30, 2011

Public Utilities Director Wiemiller introduced the item and gave a brief overview, all as contained in the staff report as submitted, and HF&H Consultant Bob Hilton gave a PowerPoint presentation on the issue which consisted of What Are Roll-Off Services?, What Objectives Are We Achieving?, Why a Non-Exclusive System?, Other Cities With Such a System, Communication with Haulers, Terms of the Agreement, What is Excluded From the Franchise?, What Companies Will Be Awarded Franchises?, and Specific Action Being Requested Today.

Councilmembers Baines and Olivier presented questions and comments relative to how the \$500,000 revenue estimate was arrived at, concern with the wording “estimate uncertain” and why better numbers could not be given, the estimate number being critical for the budget process, what will happen to the city’s equipment, if there were requirements on where recyclables are to be taken, how hauling companies spend their revenue and profit from roll-off business, if roll-off collection was currently unregulated/if it would become regulated if this is approved, who will administer the system, the 10% fee, if the fee could be characterized as a tax, and the hard economic times and concern with assessing new regulations and a tax where there are none now on companies that are trying to provide jobs. Mr. Hilton, City Attorney Sanchez, Mr. Wiemiller and an unidentified industry representative responded and clarified issues throughout. Councilmember Borgeas spoke to the 10% franchise fee and upon his question Mr. Hilton clarified the fee in this case was not something the city was imposing but was a negotiated term and something the companies were willing to pay in exchange for the franchises they wanted. Councilmember Borgeas presented additional questions and comments relative to how Fresno’s proposal/10% fee compared to other cities, if the fee was entirely appropriate and a market standard rate, if the contracts would become public record, if the number of market participants would decrease over a period of time, cash receipts and if they will be audited to confirm if the payment made to the city is correct, and it being hard to look upon this fee as a tax, with Mr. Hilton responding throughout. Mr. Wiemiller responded briefly to questions of Councilmember Quintero relative to why the city was not doing this with city employees and why a non-exclusive system with a number of trucks on the street was being proposed rather than just selecting a couple of companies.

(4 – 0) Upon question of Councilmember Xiong Mr. Sanchez stated this issue and discussion was specific to the roll-offs and explained, with ACM Rudd adding this was a complete and separate issue from commercial solid waste privatization. Mr. Wiemiller responded to questions and comments of Councilmember Xiong relative to monitoring for compliance and for non-authorized roll-off bins in use, if there would be self-policing from within the industry itself, how the self-policing process would work, the administrative function and effort levels, and support for this issue due to the difference from the commercial waste issue. Acting President Olivier stated relative to this being a fee or a tax he felt Council would set a dangerous precedent if this is approved as pages of regulation would be issued where currently there are none, private enterprise was more than capable of handling the roll-off trash situation, the fee/tax would be money this government would collect which it currently did not do, and the money was better off in the hands of private industry and urged a “no” vote. Upon question of Councilmember Quintero Mr. Wiemiller stated residences were included for consistency purposes as residences hired roll-offs just as businesses do. Councilmember Quintero stated this seemed like a step towards getting into the residential business, with Mr. Wiemiller responding.

Mr. Rudd clarified at issue this date was adoption of a Resolution of Intent to franchise the roll-off service, this process took much longer to get to Council than commercial waste did and has been an item of multiple discussions and budget presentations in the past, the \$500,000 revenue assumption had “been out there” for quite awhile, government agencies -- good/bad/or indifferent -- issue franchises to agencies and private sector businesses all the time, and regulations were necessary, elaborating throughout. Councilmember Baines stated he recognized the entire budget was built off of assumptions, and relative to his concern with the line *accuracy of the estimate is uncertain* stated he was comfortable with the explanations given on the inability to better estimate that.

President Brand stated a lot of good questions were asked, spoke to the numbers stating they were always based on the best assumptions, stated he was all for profits for the private sector but in the end competition set the market rate, relative to fees and taxes stated this entire form of government was based on a system of taxes, stated it was clear that this was not a precedent setting fee as this has been done by cities across the country, and expressed his support stating this would in the end provide for better service and better rates for the users, elaborating throughout.

On motion of President Brand, seconded by Councilmember Baines, duly carried, RESOLVED, the above entitled Resolution No. 2011-109 hereby adopted, by the following vote:

Ayes	:	Baines, Borgeas, Xiong, Brand
Noes	:	Olivier, Quintero
Absent	:	Westerlund

(9:15 a.m. ‘B’) RESOLUTION NO. 2011-110 – 92ND AMENDMENT TO AAR 2010-138 APPROPRIATING \$1,581,900 FOR SUPPLEMENTAL REFUNDS AND REIMBURSEMENTS TO APPROVED DEVELOPERS AND FOR LEGAL COSTS ASSOCIATED WITH THE UGM AND DEVELOPMENT IMPACT FEE PROGRAMS

City Engineer Mozier stated this was a routine, annual item and gave a brief overview, all as contained in the staff report as submitted. Upon question of Councilmember Xiong City Attorney Sanchez stated this was an administrative action and was different from the substance of the UGM issues discussed in closed session

On motion of Councilmember Baines, seconded by President Brand, duly carried, RESOLVED, the above entitled Resolution No. 2011-110 hereby adopted, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Quintero, Xiong, Brand
Noes	:	None
Absent	:	Westerlund

(9:15 a.m. ‘C’) RESOLUTION NO. 2011-111 – 100TH AMENDMENT TO AAR 2010-138 APPROPRIATING \$843,300 FOR SUPPLEMENTAL REFUNDS AND REIMBURSEMENTS FROM AVAILABLE FUNDS TO APPROVED DEVELOPERS

City Engineer Mozier stated this matter was similar to the previous item but dealt with a different group of funds, and gave a brief overview and recommended approval, all as contained in the staff report as submitted.

Councilmember Borgeas presented questions relative to whether this would bring the city up to speed with all outstanding amounts to developers, how reimbursements are prioritized, if there was any contractual obligation to repay within a certain period of time, the remaining \$20 million obligation and how that is categorized in the budget, and the reimbursement process, with Mr. Mozier responding.

On motion of Councilmember Borgeas, seconded by President Brand, duly carried, RESOLVED, the above entitled Resolution No. 2011-111 hereby adopted, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Quintero, Xiong, Brand
Noes	:	None
Absent	:	Westerlund

(9:15 a.m. ‘D’) RESOLUTION NO. 2011-112 – AUTHORIZING SUBMITTAL OF GRANT APPLICATIONS AND ACCEPTANCE OF UP TO \$11 MILLION IN STATEWIDE PARK DEVELOPMENT AND COMMUNITY REVITALIZATION FUNDS FROM THE CALIFORNIA DEPARTMENT OF PARKS AND RECREATION - PROPOSITION 84/ROUND II (FOR THE MARTIN RAY REILLY, EATON PLAZA, AND CULTURAL ARTS DISTRICT PARKS)

Grant Writer Yepez-Perez reviewed the issue and recommended approval, all as contained in the staff report as submitted.

A motion and second was made to approve staff's recommendation. President Brand presented comments and questions relative to this being a continuation of the debates last year on parks and funding availability, maintenance being a concern if grant funds are received, how maintenance would be paid for, time frame to form a CFD, and annual maintenance cost per park, with Ms. Yepez-Perez and Interim PARCS Director Rudd responding. Councilmember Xiong spoke briefly to parks being a quality of life issue.

On motion of Councilmember Baines, seconded by Acting President Olivier, duly carried, RESOLVED, the above entitled Resolution No. 2011-111 hereby adopted, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Quintero, Xiong, Brand
Noes	:	None
Absent	:	Westerlund

(9:15 a.m. 'E') AUTHORIZE THE INTERIM DARM DIRECTOR TO EXPAND THE PROFESSIONAL SERVICES AGREEMENT WITH DYETT & BHATIA URBAN AND REGIONAL PLANNERS TO INCLUDE AN ADDITIONAL AMOUNT NTE \$700,000 TO COMPLETE THE TECHNICAL STUDIES RELATED TO THE FRESNO 2035 GENERAL PLAN AND DEVELOPMENT CODE UPDATE AS APPROVED AND FUNDED BY THE CITY'S GRANT AWARD FROM PROPOSITION 84 ADMINISTERED BY THE CALIFORNIA STRATEGIC GROWTH COUNCIL

#1 RESOLUTION NO. 2011-113 – 103RD AMENDMENT TO AAR 2010-138 APPROPRIATING \$700,000 IN PROPOSITION 84 FUNDS IN THE DARM DEPARTMENT TO PROVIDE PROFESSIONAL SERVICES RELATED TO THE FRESNO 2035 GENERAL PLAN AND DEVELOPMENT CODE UPDATE

Long Range Planning Director Dugan gave a brief overview and recommended approval. President Brand thanked DARM staff who met with council members and addressed their concerns about the additional \$700,000. Councilmember Xiong presented questions relative to whether this was the last part of the contract and if this was the final funding commitment for the three years, with Interim DARM Director Scott and Mr. Dugan responding.

On motion of President Brand, seconded by Councilmember Baines, duly carried, RESOLVED, the Interim DARM Director authorized to expand the professional services agreement with Dyett & Bhatia as outlined above, and the above entitled Resolution No. 2011-113 hereby adopted, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Quintero, Xiong, Band
Noes	:	None
Absent	:	Westerlund

(9:15 a.m. 'F') ACTIONS RELATING TO THE DEWATERING FACILITY UPGRADE AT THE FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY

#1 ADOPT FINDING OF A MITIGATED NEGATIVE DECLARATION PURSUANT TO CEQA

#2 RESOLUTION NO. 2011-114 – 99TH AMENDMENT TO AAR 2010-138 APPROPRIATING \$14,646,300 FOR CONSTRUCTION OF THE DEWATERING FACILITY UPGRADE

#3 AWARD A CONTRACT FOR THE PROJECT TO WESTERN WATER CONSTRUCTORS, INC., IN THE AMOUNT OF \$14,531,279

Assistant Public Utilities Director Hogg reviewed the issue **(5 – 0)** and recommended approval, all as contained in the staff report as submitted. Acting President Olivier left the meeting at 11:44 a.m. during staff's presentation.

On motion of Councilmember Baines, seconded by President Brand, duly carried, RESOLVED, the finding of a Mitigated Negative Declaration hereby adopted, the above entitled Resolution No. 2011-114 hereby adopted, and the contract awarded as recommended to Western Water Constructors, Inc., by the following vote:

Ayes : Baines, Borgeas, Quintero, Xiong, Brand
Noes : None
Absent : Olivier, Westerlund

(9:15 a.m. ‘G’) ADOPT FINDING OF CLASS 1 AND 2 CATEGORICAL EXEMPTIONS PURSUANT TO CEQA (EXISTING FACILITIES AND REPLACEMENT OR RECONSTRUCTION) FOR REMODEL OF THE FAX HANDY RIDE OPERATIONS FACILITY AT 4488 N. BLACKSTONE AVENUE

#1 AWARD A CONTRACT TO FORTUNE-RATLIFF IN THE AMOUNT OF \$994,412 FOR PROJECT CONSTRUCTION SERVICES

Transportation Director Hamm reviewed the issue and recommended approval, all as contained in the staff report as submitted. Councilmember Baines stated he was very happy to see the contract go to a local firm and made a motion to approve.

On motion of Councilmember Baines, seconded by President Brand, duly carried, RESOLVED, the subject CEQA finding hereby adopted, and a contract awarded to Fortune-Ratliff as recommended, by the following vote:

Ayes : Baines, Borgeas, Quintero, Xiong, Brand
Noes : None
Absent : Olivier, Westerlund

LUNCH RECESS – 11:50 A.M. – 1:35 P.M.

(10:00 a.m. ‘B’) **RESOLUTION NO. 2011-115** – APPROVING A COUNCIL MANAGEMENT AND TRANSPARENCY POLICY FOR THE CITY ATTORNEY’S OFFICE

Councilmember Borgeas made introductory remarks and gave an in-depth review of the issue and the three policy provisions calling for (1) an annual City Attorney’s Office Report, (2) a Quarterly Service and Litigation Log, and (3) Implementation of the Work Management Policy, all as contained in his report and proposed policy as submitted. A motion and second was made to adopt the resolution.

Lengthy Council discussion ensued. Councilmember Borgeas and City Attorney Sanchez responded to questions/comments of Councilmember Xiong relative to how the changes and recommendations will affect services currently being provided, the administration’s support and what was new/what would now be in place to provide information at the front end to Council, and service demands/information flow/changes in leadership/how priorities are determined **(6 – 0)**, with discussion ensuing between Councilmembers Borgeas, Xiong and Mr. Sanchez. Upon questions of Councilmember Quintero Mr. Sanchez stated (1) his office would produce an annual CAO (City Attorney’s Office) report, a quarterly service and litigation log, and implement a work management policy if so directed by Council, (2) discussions occurred a few years ago along the lines of creating a committee to work with the CAO, and (3) it would take time and money to produce the reports and implement a work plan. Councilmember Quintero stated he has never experienced any problem in meeting with the city attorney and questioned if Councilmember Borgeas was just looking to formalize a process. Councilmember Borgeas stated in the past annual reports have been on the light end in terms of information and he was looking for information that Council could learn from. Mr. Sanchez and Mr. Scott responded to questions of Councilmember Baines relative to whether this policy would encumber the CAO in any way, if anything unreasonable was being requested, and if this policy would be of benefit to the city manager’s office. Councilmember Baines stated although it sounded like everything being requested was already being done he would support the policy as it would (1) provide information history and consistency for future councils and (2) formalize how a report is delivered to the City Council, added there was nothing in the policy that would preclude Council from making changes in the future, and stated he would support any member’s request for additional review time. Upon question of Acting President Olivier Mr. Sanchez stated the information was out there in several data bases, it would take 100 hours in the first year to get things up and running, and it would take a combination of an attorney and a law clerk to do the work. Councilmember Xiong clarified he did not need more time to talk with the city attorney and his issue was being able to digest the policy and explained. President Brand spoke to codifying informal practices and stated he felt it was important to have

policies that are consistently applied; stated this policy had the great potential to save time and money by doing a closer and more critical analysis of how time is spent; upon his question Councilmember Borgeas stated a one year review was not included only because a report would come forth every year but a provision calling for a one year review could be included; and upon further question Mr. Sanchez stated substantively this policy was fair/would help improve things/would make the CAO more efficient in tracking time and costs and explained. President Brand stated he realized a lot of this was being done now but he felt the way this was organized and presented it formalized things, added it would set up the standard for the future, it was well researched and was a step in the right direction, and requested the one year review be included and encouraged Mr. Sanchez to come forth anytime before that if this becomes more of a burden on the CAO. Councilmember Borgeas accepted the one year review, or earlier if the city attorney feels it is needed. Upon question as to whether more time was desired Councilmember Xiong stated the issue for him was more philosophical and requested Council move forward on this.

On motion of Councilmember Borgeas, seconded by President Brand, duly carried, RESOLVED, the above entitled Resolution No. 2011-115 hereby adopted, as amended, by adding a provision for a review in one year, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Quintero, Brand
Noes	:	None
Absent	:	Westerlund
Abstain	:	Xiong

RECESS – 2:48 P.M. – 3:05 P.M. Councilmember Quintero was absent for the remainder of the open meeting.

(10:00 a.m. ‘C’ – 3:00 P.M. SPECIAL MEETING NOTICE) RECOMMENDATION TO APPROVE AMENDMENTS TO THE CHARTER REVIEW COMMITTEE DOCUMENTS – COUNCILMEMBER BERGEAS
#1 RESOLUTION NO. 2011-116 – AMENDING RESOLUTION NO. 2010-219 ESTABLISHING THE CHARTER REVIEW COMMITTEE

Councilmember Borgeas stated this was a housekeeping issue and reviewed the three amendments as contained in his report to Council as submitted.

On motion of Councilmember Borgeas, seconded by Councilmember Xiong, duly carried, RESOLVED, the above entitled Resolution No. 2011-116 hereby adopted, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Xiong, Brand
Noes	:	None
Absent	:	Quintero, Westerlund

CLOSED SESSION:

(‘A’) CONFERENCE WITH LEGAL COUNSEL/DECIDING WHETHER TO INITIATE LITIGATION – CASE NAME: POTENTIAL LITIGATION AGAINST MOORE IACOFANO GOLTSMAN, INC., (MIG) AND URS, INC.

(‘B’) CONFERENCE WITH LEGAL COUNSEL/ANTICIPATED LITIGATION – CASE NAME: COF AND REDEVELOPMENT AGENCY V. FRESNO COUNTY ECONOMIC OPPORTUNITIES COMMISSION (EOC – “EOC GYMNASIUM”)

(‘C’) CONFERENCE WITH LABOR NEGOTIATOR – EMPLOYEE ORGANIZATIONS:

#1 IUOE, STATIONARY ENGINEERS, LOCAL 39

#2 FRESNO CITY EMPLOYEES ASSOCIATION (FCEA)

#3 FRESNO POLICE OFFICERS ASSOCIATION (FPOA BASIC)

#4 INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 753 (IAFF BASIC)

#5 AMALGAMATED TRANSIT UNION, LOCAL 1027 (ATU)

#6 INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 100 (IBEW)

- #7 FRESNO POLICE OFFICERS ASSOCIATION (FPOA MANAGEMENT)
- #8 INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 753 (IAFF MANAGEMENT)
- #9 CITY OF FRESNO PROFESSIONAL EMPLOYEES ASSOCIATION (CFPEA)
- #10 CITY OF FRESNO MANAGEMENT EMPLOYEES ASSOCIATION (CFMEA)
- #11 FRESNO AIRPORT PUBLIC SAFETY SUPERVISORS (FAPSS)

The City Council met in closed session in Room 2125 to consider the above matters and the meeting was adjourned thereafter.

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 4:56 p.m. having arrived and hearing no objection, President Brand declared the meeting adjourned.

Approved on the ____16th____ day of _____ June_____, 2011.

_____/s/_____ Lee Brand, Council President	ATTEST: _____/s/_____ Yolanda Salazar, Assistant City Clerk
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